

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-229-W/S

IN RE:)
)
Application of Daufuskie Island Utility)
Company, Inc. for Approval for Water)
and Sewer Rates, Terms and Conditions)

DIRECT TESTIMONY OF
PAUL VOGEL

1 **Q. PLEASE STATE YOUR NAME, ADDRESS AND BUSINESS**
2 **AFFILIATION.**

3 A. My name is Paul Vogel. My address is 25 Prestwick Green, Daufuskie Island,
4 South Carolina 29915. A summary of my Professional Career is attached hereto
5 as **Exhibit 1**. I retired in late 2010.

6

7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

8 A. I am testifying on behalf of Haig Point Club and Community Association, Inc.
9 ("HPCCA"), an intervenor in this Docket.

10

11 **Q. MR. VOGEL, ARE YOU AUTHORIZED TO TESTIFY BEFORE THE**
12 **COMMISSION IN THIS RATE PROCEEDING?**

13 A. Yes. The Board of Directors of Haig Point Club and Community Association, Inc.
14 ("HPCCA") has authorized me to appear and present the views of our
15 organization regarding the rate increase application (the "Application") filed with

1 the Public Service Commission (the "Commission") by Daufuskie Island Utility
2 Company, Inc. ("DIUC").
3

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY**

5 A. I am here to provide the position of the HPCCA in response to certain aspects of
6 DIUC's current application.
7

8 **Q. WHAT IS THE HISTORY OF YOUR CONNECTION WITH DAUFUSKIE**
9 **ISLAND?**

10 A. I have been a South Carolina resident since 1975 and a Daufuskie property owner
11 since 1989. My principal residence has been on Daufuskie Island and in Haig
12 Point since 1991. I am presently a Haig Point Club and Community Association
13 Board Member and a member of the Daufuskie Island Conservancy Board, which
14 concentrates mainly on water items. Also, I am a Daufuskie Island Historical
15 Foundation Board member. Finally, I also own an undeveloped lot within Haig
16 Point at 3 Fiddler's Court.
17

18 **Q. DO YOU HAVE ANY OTHER NOTABLE CONNECTIONS WITH**
19 **SOUTH CAROLINA?**

20 A. Yes. I am proud to say that two of my three children attended the University of
21 South Carolina system. My son, Paul Vogel, Jr., was the middle linebacker for
22 the 1984 Gamecock football team that went to a 10 and 1 season record.

1 **Q. PLEASE DESCRIBE HAIG POINT AND THE HAIG POINT CLUB AND**
2 **COMMUNITY ASSOCIATION.**

3 A. Haig Point consists of 725 lots. Two hundred and fifty (250) of the lot owners
4 have constructed homes and receive water and sewer utility service from DIUC.
5 Four hundred and seventy (475) lot owners own undeveloped lots within Haig
6 Point and receive no utility service at this time. The HPCCA is made up of
7 property owners owning both developed and undeveloped residential lots within
8 Haig Point.

10 **Q. WHAT IS THE HPCCA’S GENERAL POSITION WITH REGARD TO**
11 **THIS RATE REQUEST?**

12 A. The HPCCA understands that DIUC must have the opportunity to collect
13 sufficient revenue to allow it to reliably deliver water and sewer services on
14 Daufuskie Island. However, DIUC is currently generating almost three quarters
15 of a million dollars in utility revenue a year and seems unable to responsibly
16 utilize those substantial resources.

17 DIUC is proposing to more than double its current utility revenues with
18 the current rate application. An increase in utility rates of that magnitude, or even
19 one-half of that magnitude, would have a devastating effect upon the fragile
20 economic status of development on Daufuskie Island.

21

1 **Q. WHAT EFFECT SHOULD THE UTILITY MANAGEMENT OF THE**
2 **SYSTEM HAVE UPON THE COMMISSION’S RULING IN THIS RATE**
3 **PROCEEDING?**

4 A. The Utility’s failure to operate profitably with its current rates is, in large part,
5 due to its failure to properly manage the system and its utility business. The utility
6 pays \$130,000 annually for Guastella and Associates to manage the system from
7 its offices in Boston. This absentee-management arrangement is simply not
8 working. A perfect example of this is that DIUC’s manger, Guastella Associates,
9 has repeatedly failed to pay county property taxes for the Utility’s real property
10 located on Daufuskie Island. This is real property on which the Utility’s essential
11 system components, such as its wastewater treatment plant, are located.

12
13 **Q. WHAT EVIDENCE DO YOU HAVE OF DIUC’S FAILURE?**

14 A. I have attached as **Exhibit 2**, seven (7) pages of documents that DIUC provided to
15 the Office of Regulatory Staff following multiple discovery requests. The first
16 five (5) pages of this Exhibit are tax liens issued by the South Carolina
17 Department of Revenue for delinquent taxes on various DIUC properties located
18 within the Haig Point and Melrose/Bloody Point areas. These tax liens were
19 issued because DIUC failed to pay Beaufort County property taxes for tax years
20 ranging from 2008 through 2011. It is extremely disturbing that DIUC is failing
21 to pay these property taxes for many reasons. First, DIUC’s failure to pay this
22 most basic and crucial operating expense shows how completely broken DIUC’s
23 managerial system is. Second, this failure creates the very real risk that DIUC

1 will lose important components of the DIUC water and sewer system through a
2 tax sale.

3

4 **Q. SURELY DIUC WOULD NOT ALLOW ANY OF ITS PROPERTY TO BE**
5 **SOLD AT AUCTION FOR FAILURE TO PAY PROPERTY TAXES?**

6 I would have thought not, but DIUC's negligence has actually caused the land on
7 which the water tower is located to be sold at tax sale. Title passed to the current
8 owner, Mr. Mamdouh Sabry Abdelrahman, on December 1, 2011. Pages 6 and 7
9 of Exhibit 2 are a "No Warranty Title" deed that the Beaufort County Treasurer
10 issued to Mr. Abdelrahman, passing ownership of the DIUC land and water tower
11 to him just 4 months ago.

12

13 **Q. WHAT SEQUENCE OF EVENTS CAUSED DIUC TO LOSE**
14 **OWNERSHIP OF THE WATER TOWER?**

15 A. According to the No Warranty Title, which is an official County document that
16 sets forth the sworn testimony of the Treasurer of Beaufort County, Beaufort
17 County billed DIUC \$338.96 for 2009 taxes on this property. After DIUC failed
18 to pay these taxes, the County sent a delinquent tax notice by certified mail on
19 May 1, 2010. When that tax notice came back undelivered, on September 23,
20 2010, the Treasurer posted a notice at one or more conspicuous places *on the*
21 *property* reading "seized by the Beaufort County Treasurer to be sold for
22 delinquent taxes." Then, during September, 2010, the Treasurer advertised the
23 property for sale, once a week for three successive weeks. DIUC still failed to

1 pay the taxes, penalties, and costs - apparently \$789.90. So, in October, 2010,
2 Mamdouh Sabrey Abdelrahman purchased the land and water tower at auction for
3 \$526.70. For an entire year, DIUC could have redeemed the land and water tower
4 by simply paying the County Treasurer \$789.90, but failed to do so.
5 Consequently, on December 1, 2011, the County passed title to the land and water
6 tower to Mr. Abdelrahman, who, according to John Guastella's testimony in this
7 proceeding, owns this part of the DIUC water system to this day.

8 The degree of incompetence and irresponsibility that led to this sale is
9 truly staggering. It is currently unknown whether the utility will be able to
10 purchase back its water tower and, if so, at what cost. During the entire time that
11 DIUC was failing to make these relatively small but crucially important payments
12 to the Beaufort County Treasurer, Guastella has apparently been paying its own
13 \$130,000 per year management fee like clockwork.

14

15 **Q. WHAT IS THE SIGNIFICANCE TO THIS PROCEEDING OF DIUC'S**
16 **STARTLING FAILURE TO RETAIN OWNERSHIP OF ITS OWN**
17 **WATER TOWER?**

18 A. The most obvious significance is that the operations of this utility system located
19 on South Carolina's southern-most barrier island are not being effectively
20 managed from offices located a thousand miles away in Boston.

21 The second significance is that DIUC's failure to pay its County property
22 taxes, taxes that are a certain annual expense for every property-owning business,
23 shows that it is not effectively using its current assets. To quote Night Hearing

1 witness Mr. Aaron Crosby, DIUC has demonstrated that it is “not a good steward”
2 of the almost three quarters of a million dollars in annual revenue its customers
3 currently pay. Pouring more money into the DIUC bank account will not solve
4 this problem.

5 The third significance relates to the extremely small amount of this unpaid
6 bill (between \$338 and \$789). DIUC’s failure to retain this utility asset clearly
7 disproves the lynchpin of DIUC’s case for a rate increase: *DIUC’s current*
8 *problems are not caused by lack of money, and they will not be solved by this*
9 *Commission granting DIUC’s request for more money.*

10 The final significance goes to DIUC’s failure to establish a sufficient rate
11 base to support the exorbitant rates that it is requesting in this proceeding. DIUC
12 has asserted that the water tower adds approximately \$800,000 in value to its rate
13 base. Since DIUC clearly does not own the water tower, that asset must be
14 excluded from DIUC’s rate base calculation.

15

16 **Q. PLEASE EXPLAIN THE POA’S POSITION WITH REGARD TO**
17 **AVAILABILITY FEES.**

18 A. The Commission should summarily dismiss DIUC’s request to increase the
19 availability fees it charges to owners of undeveloped lots on Daufuskie Island.

20 The Utility’s current quarterly availability charges, as well as its proposed
21 “Availability Rate,” are as follows:

22

1 **DIUC's Current and Proposed Water & Sewer Availability Rates:**

2		Mel./Bloody Pt	Haig Pt	DIUC Proposed
3	Residential Water:	\$58.50	\$ 22.50	\$76.36
4	Residential Sewer:	\$58.50	\$ 40.00	\$95.47

5

6 In its Application, DIUC calls these Availability Rates. It bills and collects them

7 through bills like the ones attached hereto as **Exhibit 3**. As you can see, at the

8 bottom of each such bill, DIUC represents the following relevant language to

9 these undeveloped lot owners:

10 ...Daufuskie Island Utility is under the jurisdiction of the

11 South Carolina Public Service Commission ("PSC"). ***Charges are***

12 ***based on a rate schedule filed and approved by the PSC*** and

13 available for your inspection upon request....

14

15 [emphasis added]

16

17 DIUC thus invokes the power of the Public Service Commission in billing and

18 collecting these availability fees. DIUC Manager John Guastella states in his

19 testimony:

20 **Q. Has the Company been charging Availability Rates in**

21 **accordance with its PSC approved tariff?**

22 **A. Yes. Availability Rates have been approved....**

23 Testimony of John F. Guastella, p. 8.

24 In response to DIUC's position on Availability Rates, our legal representative has

25 diligently researched the Public Service Commission's records. Based upon this

26 research, it is now clear that the Availability Rates DIUC has been charging *do*

27 *not* appear "on a rate scheduled filed and approved by the PSC" and that the

1 Public Service Commission has *never* established Availability Rates for DIUC,
2 Haig Point Utility Company, or Melrose Utility Company. Indeed, around the
3 time that DIUC’s utility rates were initially established, the Commission
4 apparently followed a policy not to approve the establishment of water and sewer
5 availability rates.

6

7 **Q. WHAT IS THE SIGNIFICANCE OF THIS STARTLING FINDING?**

8 A. We believe that DIUC is directly misrepresenting its regulatory authority to
9 charge Availability Rates when it asserts to the lot owner that these so-called
10 Availability Rates “are based on a rate schedule filed and approved by the
11 PSC...” Mr. Guastella’s testimony to this effect is simply not true. DIUC’s
12 current practice of billing and collecting Availability Rates under the auspices of
13 an established Public Service Commission utility rate is, therefore, unlawful.
14 Accordingly, DIUC’s request to increase its supposed “Availability Rates” is,
15 likewise, unlawful and must be rejected.

16

17 **Q. IS THERE ANY OTHER BASIS FOR YOUR OPPOSITION TO DIUC’S**
18 **REQUESTED “AVAILABILITY RATES?”**

19 A. Yes. DIUC is levying a public utility charge for water and wastewater treatment
20 upon owners of undeveloped lots. Those undeveloped lot owners are, by
21 definition, not receiving a public utility service. DIUC’s actions in this regard are
22 unlawful. The Public Service Commission’s policy against establishing such
23 rates is appropriate because South Carolina law only authorizes the Commission

1 to establish rates for "public utility services." The Commission would, therefore,
2 not possess the authority to approve DIUC's request to charge "Availability
3 Rates" to these non-utility customers.
4

5 **Q. ARE THERE ANY OTHER CONCERNS THAT YOU HAVE**
6 **REGARDING DIUC'S REQUESTED "AVAILABILITY RATES?"**

7 A. Yes, we do have one final concern. We believe that the Utility has failed to
8 properly notice its request to increase Availability Rates. DIUC initially noticed
9 customers through the Notice of Filing that I have attached as **Exhibit 4**. The
10 Notice, which was based on DIUC's initial Schedule of Proposed Rates, did not
11 disclose DIUC's Availability Rate request. When this failure came to light, the
12 Commission issued the Amended Notice that I have attached to this Testimony as
13 **Exhibit 5**, and required DIUC to mail this Amended Notice to all affected
14 customers.

15 While the owners of undeveloped property at Daufuskie Island are
16 primarily affected by an increase in these so-called Availability Rates, it is our
17 understanding that DIUC's manager in Boston failed to serve undeveloped
18 property owners with the Amended Notice, only serving DIUC's current water
19 and sewer utility customers. Guastella's failure to provide notice to those persons
20 most directly affected by DIUC's amendment demonstrates again that DIUC's
21 Boston managers are completely out-of-touch with DIUC's water and sewer
22 operations here in South Carolina.
23

1 **Q. WOULD YOU PLEASE DESCRIBE THE CURRENT STATE OF**
2 **DEVELOPMENT ON DAUFUSKIE ISLAND?**

3 A. The island, once in a growth situation, is in a fragile state due to the economy, the
4 default of the Daufuskie Island Company (Melrose and Bloody Point) and a lack
5 of a public boating system. Each area of Daufuskie is only partially built out and
6 requires growth to survive. Due to the aggressive marketing effort of Haig Point
7 and the purchase of Melrose and Bloody Point by brave individuals, there is a
8 chance that with an improved economy the island could start to rebound. A part
9 of this rebound is dependent on costs. Property values are devalued
10 considerably, which can support growth. However, other items are hindering
11 growth, such as fuel costs to travel to and from Daufuskie Island, insurance costs
12 (which escalate each year) and, now, the potentially substantial increase in the
13 cost of water and sewer service.

14

15 **Q. HOW WOULD A RATE INCREASE SUCH AS WHAT DIUC IS**
16 **PROPOSING HERE AFFECT THAT ECONOMIC SITUATION?**

17 A. For Haig Point, DIUC's proposed increase affects DIUC residents in two ways.
18 The first way is that increased rates will directly impact the residents' cost of
19 living. The second way relates to the residents' membership costs on HPCCA.
20 HPCCA itself owns 111 residential lots (mainly due to defaults). DIUC's
21 proposed Availability Rate increase will cause HPCCA's costs to own each of
22 these lots to increase from \$62.50 to \$172.00 per quarter. This increase would, in
23 turn, cost HPCCA an additional \$12,155 per quarter or \$48,618 per year. The

1 HPCCA must pass these increased costs on to its members in the form of
2 proportionate increased member dues.

3 The proposed rate increase would place Daufuskie residents in the highest
4 water rates in the area. For a customer consuming 30,000 gallons of water per
5 quarter, a DIUC customer would be required to pay \$403 per quarter. In stark
6 comparison, a customer on Hilton Head with the same consumption would pay
7 from \$177 to \$265. Hilton Head's water system has additional water treatment
8 costs that are made necessary to salt water intrusion into the Hilton Head wells.
9 Unlike Hilton Head, DIUC must only add some chlorine and pump the water into
10 the system. If the Commission sets our rates at or near the level DIUC has
11 requested, what will DIUC's rates be when the island supply is affected by salt
12 water intrusion (a condition that is always a concern on South Carolina barrier
13 islands)?

14 DIUC's rate request must be disclosed to potential new buyers and this
15 disclosure alone will hinder real estate sales.

16

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 A. Yes it does. I appreciate the Commission's consideration of our evidence and
19 the opportunity to present our position before you.

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THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-229-W/S

RE:)	
)	
Application of Daufuskie Island Utility)	
Company, Inc. for Approval for Water)	CERTIFICATE OF SERVICE
and Sewer Rates, Terms and)	
Conditions)	

This is to certify that I have caused to be served this day the **Direct Testimony of Paul Vogel** filed on behalf of Haig Point Club and Community Association, Inc. ("HPCCA"), Melrose Property Owner's Association, Inc. ("MPOA"), and Bloody Point Property Owner's Association ("BPPOA") via electronic mail service as follows:

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Columbia, South Carolina